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State of Utah

DEPARTMENT OF NATURAL RESOURCES

Division of Water Rights

MICHAEL R. STYLER
Executive Director

JERRY D. OLDS
State Engineer/Division Director

October 24, 2005

Anthony Fuller
151 North 4600 West
Fillmore, UT 84631

Dear Mr. Fuller:

I am writing in response to your letter to Jerry Olds dated October 12, 2005. I will respond to the issues raised in the letter in the order that you addressed them.

A. Request for a "Clearing Agent"

The State Engineer has appointed water commissioners in both the Beryl Enterprise and the Milford groundwater pumping areas. The commissioners' purpose in both of these areas is to assist in monitoring the amount of land being irrigated from groundwater. The state engineer has undertaken an effort in these areas to regulate groundwater use by verifying that the amount of land irrigated does not exceed the limits of the water rights. This process relies heavily on the use of aerial photography and the commissioners' efforts in identifying illegal water use are limited to assisting with any necessary field verification. This process is very labor intensive. In each area it took at least two years for our office to research the water rights, clarify the sole supply limitations for each water right, and update water right ownership to the point that we felt confident in being able to adequately regulate, and prosecute if necessary, any unlawful irrigation on an area wide basis. The water commissioners did not do this work; it required the expertise of the Division of Water Rights staff.

The water rights in the Beryl Enterprise and Milford areas are somewhat straightforward because the major part of the irrigation is based on groundwater use. The water rights in Pahvant Valley are not so straightforward because there is more irrigation from surface sources. Researching the water rights and clarifying the sole supply limitations of the water rights for Pahvant Valley would be more difficult and complex. Irrigation in Pahvant Valley also covers a much larger area than irrigation in either of the Beryl Enterprise or Milford areas.

As you are aware, we have considered the establishment of a distribution system and the appointment of a water commissioner for Pahvant Valley. However, largely because of the lack of resources, we have not yet undertaken the research necessary to prepare to adequately regulate the entire valley. At this time, I am not certain when the resources will be available to undertake this effort.

The legislature did pass legislation this year granting the state engineer new authority to enforce water right violations through an administrative process and we are in the process of implementing this program. Since this is a new program, and a very sensitive program, we are moving ahead carefully. The required administrative rules have been developed and adopted and we have just recently filled the staff position approved by the legislature. We do not now have, nor will we have in the future, the resources needed to review all the water use in the state in search of unlawful use. Therefore, we will rely to a certain extent on written complaints from water users regarding specific water right violations. We will review and evaluate every complaint that comes before us; however, because of limited resources, the state engineer will have to use discretion in selecting those violation situations that are prosecuted through the administrative process. If you have knowledge of individuals in your area diverting and using water in

excess of their water right, we would advise you to submit such information for our review and consideration.

B. Request for Letter to Irrigators

I believe this office has, from time to time, sent out a letter describing the status of groundwater levels in Pahvant Valley. This information is also available in the USGS Report "Ground-water Conditions in Utah". The most recent issue of this report, for the Spring of 2005, can be viewed online on the Division of Water Rights website at www.waterrights.utah.gov. Click on "Publications", select "Ground-Water Conditions in Utah Report Series" from the list of publications, click on "List Publications", and then select the most recent issue from the list of groundwater condition reports.

Although we certainly support water use efficiency and water conservation, we do not as a rule send out letters instructing water users on these topics.

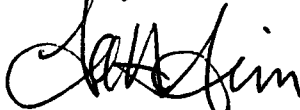
C. Call for Water (Priority cut-back)

The Legislative Task Force on Water Issues is currently discussing the issue of groundwater regulation by priority date. Legislation is being drafted by the task force and may be submitted to the 2006 Legislature for consideration. The most recent draft of the proposed legislation is available online on the Utah Legislature's website at www.le.state.ut.us. Under "Committees" click on "Task Forces", click on "Water Issues Task Force" (at the bottom of the screen), click on the most recent link listed in the "Related Materials" column, and then click on "Groundwater Management Plan".

The State Engineer has asked the legislature for guidance in this area and is not planning to undertake any such regulation until it has completed its work. If the legislation is passed in its present form, the regulation of ground water by priority date in any groundwater basin will first require the adoption of a groundwater management plan. It will take some time and public input to develop an adequate plan for a specific ground water basin and there are several basins that appear to be in this situation. It is not possible at this time to determine when regulation based on a groundwater management plan will be implemented for Pahvant Valley.

Having said all of this, I want to assure you that we are not unsympathetic to your concerns. I hope this letter will help you understand the factors and limitations involved in our enforcement and regulation efforts. We are well aware of the situation in Pahvant Valley and will address those issues when possible.

Sincerely,

A handwritten signature in black ink, appearing to read "Lee H. Sim".

Lee H. Sim, P.E.
Assistant State Engineer

cc: Kirk Forbush, Regional Engineer
Kerry Carpenter